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Decision

Matter of: General Dynamics Information Technology, Inc.

File: B-421290; B-421290.2

Date: March 1, 2023

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DIGEST

1. Protest challenging the evaluation of the awardee's proposal under the past performance and technical evaluation factors is sustained where the agency does not reasonably explain why the awardee's past performance and experience references were relevant, and where the agency improperly assigned a strength to the awardee's proposal regarding experience.
 2. Protest challenging the evaluation of the protester's technical proposal is denied where the evaluation was reasonable and consistent with the solicitation criteria.
 3. Protest challenging the adequacy of the agency's documentation of its evaluations of the protester's and awardee's proposals is denied because an agency is not prohibited from assigning a strength or weakness in a consensus evaluation that was not first identified by an individual evaluator.
 4. Protest challenging the agency's decision to issue a task order to the offeror that submitted a lower-priced, lower technically rated proposal is sustained where the evaluation relied on the unreasonable evaluation of the awardee's proposal under the past performance and technical evaluation factors.
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DECISION

General Dynamics Information Technology, Inc. (GDIT), of Falls Church, Virginia, challenges the issuance of a task order to GovCIO, LLC, of Fairfax, Virginia, by the Department of Veterans Affairs (VA), under request for task order response (RTOR) No. 36C10D22Q0026, which was issued for file conversion services for the Veterans Benefits Administration (VBA). GDIT argues that the award to GovCIO was improper because the agency unreasonably evaluated the protester's and awardee's proposals under the technical and past performance factors, the agency's consensus technical evaluation was not adequately documented, and because the award decision was inconsistent with the solicitation criteria and not adequately documented.

We sustain the protest.

BACKGROUND

The VA issued the solicitation on September 20, 2022, seeking proposals¹ to provide file conversion services for the VBA as part of its efforts to improve the veterans benefits and claim processes. Agency Report (AR), Tab 4 , RTOR at 1.² The contractor will be required to “extract, receive, control, and convert” source material from veterans’ personnel records and benefits claim files “to standardized, indexed, and searchable” electronic files in PDF format, and to return the source material. AR, Tab 10, Revised Performance Work Statement (PWS) at 10. The source files will include veteran disability claim files (C-files), official military personnel files (OMPFs), service treatment records (STRs), and records from other government or military entities. *Id.* GDIT is the incumbent contractor for these requirements under two contracts: the records management center extraction and scanning services contract (RMC ESS), and the file conversion services contract (FCS). Protest at 15; PWS at 9.

The competition was limited to firms that hold one of the agency's multiple-award IDIQ contracts, known as Veterans Intake, Conversion, and Communication Services (VICCS), and was conducted under the task order provisions of Federal Acquisition Regulation (FAR) subpart 16.5. Contracting Officer's Statement (COS) at 1; RTOR at 37. The RTOR anticipated issuance of a task order with fixed-price line items for a 1-year base period and two 1-year options. RTOR at 5-29, 35; PWS at 13.

¹ Although firms that compete for task orders under indefinite-delivery, indefinite-quantity (IDIQ) contracts are generally referred to as “vendors,” the record and the parties’ briefings use that term interchangeably with “offerors.” For the sake of consistency, our decision uses the term offerors. The record and the parties’ briefings also use the terms “quotation” and “proposal” interchangeably. For the sake of consistency, our decision uses the term proposals.

² Citations to the record and the parties’ briefings are to the Adobe portable document format (PDF) pages for those documents.

The solicitation advised that proposals would be evaluated based on three factors: (1) technical; (2) past performance; and (3) price. RTOR at 42. The technical factor had three “equally important elements”: (1) technical approach, (2) staffing approach; and (3) capability and experience. *Id.* at 43. For purposes of award, the technical factor was “more important” than the past performance factor, and the non-price factors, when combined, were “significantly more important” than price. *Id.* at 42.

The VA received proposals from two offerors, GDIT and GovCIO, by the October 5 closing date for receipt of proposals. AR, Tab 41, Award Decision Document (ADD) at 1. The agency’s technical evaluation panel (TEP) for this procurement evaluated the proposals as follows:³

	GDIT	GovCIO
Technical Factor	Good	Satisfactory
Past Performance Factor	Low Risk	Low Risk
Price	\$399,641,439	\$241,593,949

Id. at 1, 6.

For the technical factor, the agency assigned GDIT’s proposal eight strengths and three weaknesses, and an overall adjectival rating of good, and GovCIO’s proposal five strengths, one weakness, and one significant weakness, for an overall rating of satisfactory. *Id.* at 2, 4. For the past performance factor, the agency found that both offerors’ provided relevant references, and assigned both proposals ratings of low risk. *Id.* at 6.

The source selection authority (SSA) found that although GDIT’s proposal merited a higher adjectival rating under the technical factor as compared to GovCIO’s proposal, there were “no significant advantages or disadvantages between the offers to justify the payment of the price difference associated with GDIT’s offer, given the level of technical competence available at GCIO’s lower price.” *Id.* at 7. The SSA therefore concluded that “it is not in the best interest of the Government to award to a contractor with a higher-rated, higher-priced (by \$158M) offer,” and selected GovCIO’s proposal for award. *Id.*

³ For the technical factor, the agency assigned proposals one of the following ratings: (1) excellent, (2) good, (3) satisfactory, or (4) marginal. AR, Tab 41, ADD at 2. For the past performance factor, the agency assigned proposals one of the following ratings: (1) neutral, (2) low risk, (3) moderate risk, or (4) high risk. *Id.* at 6.

The VA issued the task order to GovCIO on November 10. COS at 3. The agency notified GDIT of the award on November 10, and provided a debriefing on November 16. *Id.* The protest followed.⁴

DISCUSSION

GDIT challenges the VA's award to GovCIO based on four primary arguments: (1) the agency unreasonably evaluated the awardee's proposal under the past performance and technical factors; (2) the agency unreasonably evaluated the awardee's proposal under the technical factor; (3) the agency's consensus technical evaluation was not adequately documented with regard to how the consensus was reached; and (4) the award decision was inconsistent with the solicitation criteria and not adequately documented.⁵ For the reasons discussed below, we agree with the protester that the agency's evaluation of the awardee's proposal under the past performance and technical factors was unreasonable, and that this had a prejudicial effect on the evaluation supporting the award decision. We also find, however, that the protester's arguments regarding the evaluation of its own proposal and the documentation of the consensus report do not provide a basis to sustain the protest.

In reviewing protests of awards in task order competitions conducted under the provisions of FAR subpart 16.5, we do not reevaluate proposals but examine the record to determine whether the evaluations and source selection decision are reasonable and consistent with the solicitation's evaluation criteria and applicable procurement laws and regulations, adequately documented, and treat all offerors or vendors equally. *DynCorp Int'l LLC*, B-411465, B-411465.2, Aug. 4, 2015, 2015 CPD ¶ 228 at 7; *Sumaria Sys., Inc.; COLSA Corp.*, B-412961, B-412961.2, July 21, 2016, 2016 CPD ¶ 188 at 10. A protester's disagreement with the agency's judgment regarding the evaluation of proposals, without more, is not sufficient to establish that the agency acted unreasonably. *Imagine One Tech. & Mgmt., Ltd.*, B-412860.4, B-412860.5, Dec. 9, 2016, 2016 CPD ¶ 360 at 4-5.

⁴ The awarded value of the task order at issue exceeds \$10 million. AR, Tab 27, SSDD, at 4. Accordingly, this procurement is within our jurisdiction to hear protests related to the issuance of orders under multiple-award IDIQ contracts that were awarded under the authority of title 41 of the United States Code. 41 U.S.C. § 4106(f)(1)(B).

⁵ GDIT also raises other collateral arguments. Although we do not address every argument, we have reviewed them all and find no basis to sustain the protest. The protester withdrew a number of challenges to the evaluation of the awardee's proposal. Comments & Supp. Protest at 4 n.2. The protester also withdrew its argument that the awardee's proposal contained material misrepresentations regarding agreements with its proposed subcontractors, following a hearing conducted by our Office to further develop the record regarding this matter. Protester's Notice of Partial Withdrawal, Feb. 9, 2023, at 1.

In reviewing the record, while we generally accord greater weight to the contemporaneous record, we consider all the information provided, including the parties' arguments and explanations concerning the contemporaneous record. *Remington Arms Co., Inc.*, B-297374, B-297374.2, Jan. 12, 2006, 2006 CPD ¶ 32 at 10. Post-protest explanations that provide a detailed rationale for contemporaneous conclusions, and simply fill in previously unrecorded details, will generally be considered in our review of the reasonableness of evaluation decisions--provided those explanations are credible and consistent with the contemporaneous record. *NWT, Inc.; PharmChem Labs., Inc.*, B-280988, B-280988.2, Dec. 17, 1998, 98-2 CPD ¶ 158 at 16. Where an agency offers an explanation of its evaluation during the heat of litigation that is not borne out by the contemporaneous record, however, we generally give little weight to the later explanation. *Microsoft Corp.*, B-420004, B-420004.2, Oct. 29, 2021, 2022 CPD ¶ 155 at 15;

Competitive prejudice is an essential element of a viable protest. *Coast to Coast Computer Prods., Inc.*, B-419116, B-419116.2, Dec. 18, 2020, 2020 CPD ¶ 370 at 10-11. We will sustain a protest only where the protester demonstrates that, but for the agency's improper actions, it would have had a substantial chance of receiving the award. *Id.* Where the record establishes no reasonable possibility of prejudice, we will not sustain a protest even if a defect in the procurement is found. *Procentrix, Inc.*, B-414629, B-414629.2, Aug. 4, 2017, 2017 CPD ¶ 255 at 11-12.

Evaluation of GovCIO's Proposal

GDIT argues that the VA unreasonably evaluated GovCIO's proposal under the past performance factor, as well as the staffing approach and capability and experience elements of the technical factor. For the reasons discussed below, we agree with the protester that the agency did not reasonably evaluate the relevance of the awardee's past performance references. With regard to the capability and experience element, we also agree with the protester that one aspect of one strength assigned to the awardee's proposal under the capability and experience element was inconsistent with the solicitation's evaluation criteria. We therefore sustain the protest based on these arguments.

Past Performance Factor

GDIT argues that the VA unreasonably assigned GovCIO's proposal a rating of low risk for the past performance factor. The protester contends that the awardee's past performance references should not have been found relevant because they were smaller than the solicitation requirement, and did not involve all of the same requirements as the solicitation. For these reasons, the protester argues that the awardee's proposal should have been assigned a rating of neutral for the past performance factor. We agree with the protester.

As a general matter, the evaluation of an offeror's past performance is within the discretion of the contracting agency; our Office will, however, question an agency's

evaluation of past performance where it is unreasonable or undocumented. *Solers, Inc.*, B-404032.3, B-404032.4, Apr. 6, 2011, 2011 CPD ¶ 83 at 8. A protester's disagreement with the agency's judgment concerning the merits of the protester's past performance, without more, does not establish that the evaluation was unreasonable. *Constellation NewEnergy, Inc.*, B-409353.2, B-409353.3, July 21, 2014, 2014 CPD ¶ 219 at 6.

The solicitation instructed offerors to address their past performance on "no more than two projects which are recent and relevant." RTOR at 40. The solicitation defined relevant contracts as follows:

Relevancy is defined as a contract that is similar in size and scope of the requirements in the solicitation. . . . Similar in size means the total price of the contract, the number of staff, the number of users served, the number of locations served, etc. Scope compares how well the requirements in the RFQ's PWS align with those of the past performance referenced. Quality is defined as performance which is satisfactory or better and will be used to assess the risk associated with successful contract performance.

Id.

The solicitation further explained that "[t]he threshold questions of recency and relevancy will not be adjectivally evaluated," and that "once a reference is determined to meet these requirements, the government will evaluate the actual reference to determine the [offeror's] performance record and assess the quality of the past performance."⁶ RTOR at 43.

GovCIO identified two past performance references: (1) the Paper Mail Conversion Management System (PMCMS) contract; and (2) the Electronic Mail Management Services (EMMS) contract, both of which were performed for the VA. AR, Tab 17, GovCIO Past Performance Proposal at 3-6. The VA found both references relevant as follows:

Both the Paper Mail and EMMS contracts are current and within five years of this solicitation. Both contracts are similar in size and scope to the Conversion Services Contract. The overall rating for the Offeror shows that they can meet requirements and exceed in areas like being ahead with deployments and delivery of applications like QuickSubmit. Issues are resolved in a timely and professional manner.

AR, Tab 41, ADD at 6.

⁶ The protester does not challenge the agency's evaluation of the quality of the awardee's past performance, which was the basis of the low risk rating.

We first address the protester's arguments concerning the manner in which the agency evaluated the value of GovCIO's past performance references. The protester argues that although the awardee's proposal stated that the PMCMS contract was valued at \$101,067,673 and the EMMS contract was valued at \$40,007,681, the agency should have rejected these figures and concluded that the values of these contracts was much smaller. Comments & Supp. Protest at 11-16. For example, the protester argues that the full award value of the PMCMS contract had not been obligated by the VA, and that the contract had not been fully performed as of the proposal submission due date-- factors which should have caused the agency to discount the value of this past performance reference. *Id.* at 11-12.

We find no basis to conclude that the agency unreasonably relied on the values of the awardee's contracts as stated in its proposal. The solicitation explained that the evaluation criterion "similar in size" referred to "the total price of the contract, the number of staff, the number of users served, the number of locations served, etc." RTOR at 40. We agree with the agency that the solicitation did not require the kind of discounting of the "total price of the contract" argued by the protester.

GDIT also argues that the size of the awardee's past performance references should have been evaluated based on a comparison to the protester's proposed price for the solicitation requirements. Comments & Supp. Protest at 12, 15. For example, the protester contends that the \$101 million value of the PMCMS contract should have been compared to the protester's proposed price of \$399 million, rather than the awardee's proposed price of \$241 million. *Id.* at 12. The solicitation did not specify how the agency would evaluate the relevance of the size of a past performance reference, aside from stating that it must be "similar [to] . . . the requirements in the solicitation." RTOR at 40. We agree with the agency that the solicitation did not require the agency to compare the size of the past performance references in the manner argued by the protester, and that it was reasonable to compare the size of an offeror's past performance reference to that offeror's own proposed price and level of staffing for the solicitation.

Next, GDIT argues that the PMCMS and EMMS references could not have been found relevant in terms of size because they had smaller values and staffing levels as compared to the solicitation requirements and GovCIO's proposal. GovCIO proposed a price for this procurement of \$241 million, and an estimated level of effort of [DELETED] full-time equivalent staff (FTEs) for the solicitation requirements, and [DELETED] FTEs for the maximum work levels. AR, Tab 14, GovCIO Technical Proposal at 11. The value of the PMCMS contract was \$101 million and involved between [DELETED] and [DELETED] FTEs, and the value of the EMMS contract was \$40 million and involved [DELETED] FTEs. Supp. Memorandum of Law (MOL) at 15-16; AR, Tab 17, GovCIO Past Performance Proposal at 2-3, 5. Based on the disparity between these values and staffing levels, GDIT argues that it was unreasonable for the agency to conclude that GovCIO's two past performance references were relevant.

In support of its argument that the agency unreasonably found the awardee's past performance references similar in size and scope, the protester cites two decisions where our Office found an agency's evaluation of the relevance of an awardee's past performance to be unreasonable, *Al Raha Group for Technical Services, Inc.; Logistics Management International, Inc.*, B-411015.2, B-411015.3, Apr. 22, 2015, 2015 CPD ¶ 134, and *Continental RPVs*, B-292768.2, B-292768.3, Dec. 11, 2003, 2004 CPD ¶ 56. In *Al Raha Group*, we sustained the protest because the agency assigned the highest possible adjectival rating based on the relevance of the awardee's past performance, despite the fact that the combined value of the awardee's references were only 0.14 percent of the value of the solicitation requirement, and because the references did not satisfy all of the objective minimum criteria for relevance set forth in the solicitation. *Al Raha Grp. for Tech. Servs., Inc.; Logistics Mgmt. Int'l, Inc.*, *supra* at 6-7. In *Continental RPVs*, we sustained the protest because although the agency assigned the awardee's proposal the highest possible rating under the past performance factor, the agency unreasonably failed to consider the size of prior contracts in evaluating the relevance of the awardee's past performance, as required by the solicitation, where the value of awardee's prior contracts were less than 3 percent of the solicitation requirements. *Continental RPVs*, *supra* at 8.

Unlike *Al Raha Group* and *Continental RPVs*, the solicitation here stated that relevance would not be evaluated on a comparative basis, but rather in a manner that was akin to a threshold pass/fail evaluation to determine whether a reference was then eligible for a comparative assessment based on performance quality. RTOR at 43. The RTOR did not identify a minimum value or other objective minimum criteria for assessing whether a reference was "similar in size and scope of the requirements in the solicitation." *Id.* at 40. We therefore review the record and the agency's evaluation by noting that the solicitation provided for a pass/fail evaluation of relevance, and did not have objective minimum criteria for determining similarity of size and scope. As discussed below, we conclude that neither the contemporaneous record nor the agency's response to the protest reasonably explain why it found the awardee's past performance references relevant.

With regard to size, the protester argues that both the PMCMS and EMMS contract references were smaller in value and staffing levels than the solicitation requirement, even measured by the awardee's own proposed price and staffing. As noted above, the contemporaneous record simply states that the agency found the reference relevant. See AR, Tab 41, ADD at 6. In response to the protest, the VA acknowledges that the value of the awardee's PMCMS and EMMS contracts were smaller in size as compared to the awardee's proposed price for the solicitation, and involved fewer FTEs, but states that they were sufficiently similar in terms of the overall value, personnel, and number of users and locations served. Supp. MOL at 16, 18.

The agency's response to the protest does not specifically explain how it found the size of the PMCMS reference relevant in light the smaller size of the reference (\$101 million) as compared to the proposed price for this procurement (\$241 million). The agency also did not meaningfully address the difference in the number of FTEs under the

reference (between [DELETED] and [DELETED] FTEs) as compared to the awardee's proposed staffing for this procurement (between [DELETED] and [DELETED] FTEs). Similarly, the agency does not specifically explain how it found the size of the EMMS reference relevant in light of the smaller size of the reference (\$40 million) as compared to the proposed price for this procurement (\$241 million). Nor does the agency meaningfully address the significant difference in the number of FTEs under the reference ([DELETED] FTEs) as compared to the awardee's proposed staffing for this procurement (between [DELETED] and [DELETED] FTEs).

While the agency states that its findings of relevance for the PMCMS and EMMS contracts relied on the solicitation's definition of relevance in terms of "number of users [and] locations served," the agency does not cite any information from the awardee's proposal regarding the number of users or locations served in those contracts. See Supp. MOL at 16, 18. The agency also states that its familiarity with the awardee's performance shows that the references were relevant. For example, with regard to the PMCMS contract, the agency states:

VA is uniquely positioned in regard to the Paper Mail task order as the same office oversaw the performance of this contract. Accordingly, VA found that based on the total price and the number of users, locations served, and staff, the Paper Mail task order is similar in size to the CS task order.

Id. at 16. Aside from this general assertion, the agency does not reasonably explain how it concluded that the awardee's past performance references were similar in size to the solicitation requirements.

With regard to the scope of the past performance references, GDIT argues that neither of the awardee's contracts addressed all of the PWS requirements, focusing particularly on the requirement to work with OMPFs. The agency notes that the solicitation did not require offerors to demonstrate that a past performance reference involved performance of all of the PWS requirements. Rather, the RTOR stated that scope would be evaluated as to "how well the requirements in the RFQ's PWS align with those of the past performance referenced." RTOR at 40. Although the agency's characterization of the solicitation provisions is accurate, we agree with the protester that the record does not reasonably explain how the agency found the awardee's references similar in scope.

Although the agency does not specifically state how the evaluators evaluated the scope of the awardee's past performance references, the agency generally states that the awardee had similar experience on the PMCMS contract with regard to "the same core requirement, including the receipt, handling, indexing, retrieval, packaging, and conversion of multiple document formats on behalf of VA and the Veterans it serves." Supp. MOL at 16 (*citing* AR, Tab 17, GovCIO Past Performance Proposal at 3-4). The agency also states that the EMMS contract "involve[d] the same core requirement, including the receipt, handling, indexing, retrieval, packaging, and conversion of multiple

document formats on behalf of VA and the Veterans it serves.” Supp. MOL at 18 (*citing* AR, Tab 17, GovCIO Past Performance Proposal at 4-5).

With regard to handling OMPFs, the agency states that “GovCIO does have experience with OMPFs under the Paper Mail contract.” Supp. MOL at 16. The awardee’s proposal, however, does not specifically state that either the PMCMS or the EMMS contracts had experience working with OMPFs. Rather, the proposal stated that under the PMCMS contract, the work involved “handling OMPF source material (*e.g.*, C-files).” AR, Tab 17, GovCIO Past Performance Proposal at 3. The agency acknowledges that C-files (VA disability benefit claim files) are different from OMPFs (armed service career files), but does not reasonably explain why it concluded that the proposal’s citation of C-files demonstrated experience with OMPFs. See Supp. MOL at 16. Although the agency states that “based on VA’s oversight of the Paper Mail and EMMS task orders, VA is especially aware of GovCIO’s experience with DeckLogs, OMPFs, and C-Files,” it does not provide any information to substantiate this statement. See *id.* Thus, to the extent the agency relied on its understanding that GovCIO’s past performance reflected experience handling OMPFs, the record does not support this conclusion.

Additionally, the agency does not meaningfully respond to the protester’s argument that the EMMS contract is not relevant to the PWS requirements because that contract provides email conversion services, rather than paper conversion services. The protester notes that the PWS for this solicitation stated that the source material to be converted into PDF format is “predominately in paper form but can also include CDs/DVDs/Microforms/etc.” PWS at 22. As the protester notes, the awardee’s proposal stated that the EMMS contract involved conversion of electronic files rather than paper files. See AR, Tab 14, GovCIO Technical Proposal at 28.

In sum, we recognize that the solicitation did not set forth minimum objective criteria for assessing the size and scope of the relevance of an offeror’s past performance, and that the solicitation also provided for a pass/fail evaluation of relevance. Nonetheless, the agency was still obligated to explain why it found the awardee’s proposed past performance references were relevant. For the reasons discussed above, we agree with the protester that neither the contemporaneous record nor the agency’s response to the protest reasonably explains the basis for the agency’s conclusions.

We also acknowledge that the solicitation provided that an offeror “with no Past Performance shall be evaluated as ‘Neutral’.” RTOR at 43. As our Office has explained, while an agency may not evaluate an offeror’s lack of past performance unfavorably, an agency may in its tradeoff analysis determine that highly rated past performance is more beneficial than a neutral past performance rating. *American Floor Consultants, Inc.*, B-294530.7, June 15, 2006, 2006 CPD ¶ 97 at 5; *CMC & Maint., Inc.*, B-292081, May 19, 2003, 2003 CPD ¶ 107 at 4. We therefore conclude that even if the agency assigned the awardee’s proposal a rating of neutral for the past performance factor, the protester demonstrates that it was prejudiced by this error. The protestor was prejudiced because the agency’s award decision relied on the conclusion that there were no differences between the offerors’ proposals that merited the protester’s higher

price--a finding that would have needed to take into consideration the difference between a low risk and neutral past performance rating. See *SITEC Consulting, LLC, et al.*, B-413526.4 *et al.*, Apr. 3, 2017, 2017 CPD ¶ 164 at 15. We therefore sustain the protest on this basis.⁷

Staffing Approach Element

GDIT argues that the VA improperly evaluated GovCIO's proposal under the staffing approach element of the technical factor because the awardee's proposed level of staffing is lower than the protester's proposed level of staffing and the level of staffing for the incumbent requirement. Comments & Supp. Protest at 8-10. The protester contends that the agency's evaluation of the awardee's proposal failed to consider the risks of what the protester maintains is a lower level of staffing than will be required to perform the task order.

As relevant to the protester's argument, the staffing approach element required offerors to submit proposals that addressed the following criteria:

E.1.5.1.2.2. Approach demonstrates the offerors planned organizational chart for the first 180 days of performance. The organizational chart shall include all planned positions with the named resources (including and directly identifying subcontractor resources) who will be working on those positions for the first 180 days.

E.1.5.1.2.3. Approach has a relevant estimate of level of effort for each task to include labor categories/labor mix and associated hours for all team members across the prime and any proposed sub-contractors.

RTOR at 39.

GDIT primarily argues that the awardee's proposed staffing will not be adequate to perform the work because it is lower than what the protester contends is the required level as reflected in its own proposed approach and the incumbent contracts. The protester notes that the agency assigned its proposal a strength under the staffing approach element, which recognized that GDIT was currently performing the incumbent requirement:

⁷ We also note that the agency's responses to the protester's arguments conflate the solicitation's criteria of size and scope by suggesting that "size is only one aspect of the solicitation's definition of relevance." Supp. MOL at 13. As discussed above, the RTOR provided that a relevant past performance reference must be "similar in size *and* scope of the requirements in the solicitation." RTOR at 40 (emphasis added). Based on the recommendations below, the agency may wish to address this discrepancy during its reevaluation.

The offeror indicates currently approved, active capacity to meet the processing requirements of the task immediately upon award. This increases confidence that the offeror will be able to deliver the volume of required document conversion services within the expected delivery schedule.

AR, Tab 41, ADD at 3.

GDIT contends that this strength reflects the agency's confirmation that the "current production level will be necessary for performance." Comments & Supp. Protest at 9. The protester argues that, having found its incumbent level of performance to be the minimum level, the agency could not have found the awardee's proposed staffing to be acceptable. In this regard, the protester notes that the awardee's proposed level of staffing is "barely more FTEs than are required to meet the VA's current demands on the incumbent effort," and is less than what the protester contends will be required under the solicitation. *Id.* The protester also contends that the awardee's proposal reflects a level of staffing on the first day of performance that will not be sufficient to meet the solicitation requirements. *Id.*

In response to the protester's arguments, the agency notes that the solicitation did not require a minimum level of staffing, nor did it specify that an offeror was required to propose a minimum level of staffing for the first day of performance. See RTOR at 39. Rather, the RTOR stated that offerors were required to provide "a relevant estimate of level of effort for each task to include labor categories/labor mix and associated hours for all team members across the prime and any proposed sub-contractors." *Id.* The contracting officer explains that GovCIO's proposal was found to be acceptable, but that no strengths or weaknesses were assigned with regard to the level of staffing. COS at 4. The agency further states that the strength assigned to GDIT's proposal did not reflect a judgment by the agency that the protester's proposed level of staffing was the minimum level required. See Supp. MOL at 6.

We agree with the agency that the RTOR did not state that the agency would evaluate proposals based on a mandatory minimum level of staffing or in comparison to the incumbent effort. We also find that the record does not support the protester's argument that the strength assigned to its proposal established a *de facto* minimum staffing level. Thus, to the extent the protester's arguments rely on differences between what the protester contend are its own staffing levels for the incumbent contracts and its proposed staffing for the solicitation, and the awardee's proposed level of effort, we find no basis to sustain the protest.

Capability and Experience Element

GDIT argues that the VA unreasonably found GovCIO's proposal technically acceptable under the capability and experience element. The protester also argues that the agency improperly assigned a strength to the awardee's proposal based on experience that was not reflected in its proposal for this evaluation element. We agree with the protester.

For this element, the solicitation advised that the agency would “evaluate and measure capability and experience to determine the extent to which the [offeror] has previously provided recent and relevant services in support of the various tasks listed in PWS or similar tasks.” *Id.* The solicitation required offerors to demonstrate capability and experience necessary to meet the solicitation requirements, and to provide “2 or more examples of projects of similar size, scope, and complexity,” performed by the offeror or its subcontractors. RTOR at 39. As with the past performance factor, the capability and experience element did not set forth objective minimum criteria for determining the similarity of the size, scope, and complexity of a reference. *See id.* at 39-40.

GovCIO cited in its proposal the same PMCMS and EMMS contracts for the capability and experience element as for the past performance factor. AR, Tab 14, GovCIO Technical Proposal at 41-48. GDIT argues that GovCIO failed to comply with the solicitation requirement to provide “2 or more examples of projects of similar size, scope, and complexity” as the solicitation, and that its proposal therefore should have been found technically unacceptable. Comments & Supp. Protest at 19. The protester’s challenge to the agency’s evaluation of GovCIO’s two references relies primarily on the same arguments concerning the similarity of the size and scope of the contract references to the solicitation requirements. *See id.* at 20-22.

The contemporaneous evaluation record for this element also does not explain how the agency determined that these contract references were similar in size, scope, and complexity. The agency’s response to the protester’s arguments also relies primarily on its response to the protester’s arguments concerning the relevance of the awardees’ past performance references. *See Supp. MOL* at 20-21. As discussed above, however, neither the contemporaneous record nor the agency’s response to the protest demonstrate that the agency reasonably evaluated the relevance of the awardee’s past performance references. Because there is no basis to conclude that the agency reasonably found GovCIO’s references were “of similar size, scope, and complexity” as the solicitation, we sustain the protest on this basis.

Next, GDIT argues that the VA improperly assigned a strength to GovCIO’s proposal based on the length of the awardee’s experience. The VA assigned GovCIO’s proposal the following strength under the capability and experience element:

Offeror explained how they are currently and successfully performing the same/or similar conversion requirements as in this [task order (TO)] under the PMCMS and EMMS (36C10B20N10030028 and 36C10E19D0017) Contracts, as well as having 10 years of previous experience handling physical and digital media, and STRs, OMPFs, and C-Files. This successful history of performance increases the Government’s confidence that the Offeror will be able to successfully perform the requirements in this TO.

AR, Tab 41, ADD at 5.

GDIT argues that the reference in this strength to “10 years of previous experience handling physical and digital media, and STRs, OMPFs, and C-Files” was unreasonable because the two experience references cited in the awardee’s proposal did not cover 10 years of performance. For this reason, the protester argues that the strength was improperly assigned. We agree with the protestor.

The VA does not dispute that the PMCMS and EMMS contracts cited in the capacity and experience element section of GovCIO’s proposal do not address 10 years of performance. See Supp. MOL at 21-22. Instead, the agency contends that it reasonably found that GovCIO’s proposal reflected 10 years of relevant experience based the experience of the awardee’s other team members. *Id.* at 22. The VA notes that the solicitation criteria for this element provided that an offeror could “use their experience, prior entity experience, Subcontractor experience and personnel experience to respond.” RTOR at 39. The agency further explains that the awardee’s proposal cited the experience of its team members as follows:

Our historical data is based on 10+ years of experience processing VBA OMPF and C-Files. . . . Team GovCIO has over 10 years of incumbency processing physical and digital mail and media on [DELETED], PMCMS, EMMS, and [DELETED]. Our team also has over seven years of direct experience handling STRs, OMPFs, and C-Files.

AR, Tab 14, GovCIO Technical Proposal at 11, 18.

While the agency correctly notes that the solicitation permitted offerors to identify the experience of team members for the capability and experience element, the solicitation limited offerors to submitting two references for the purpose of the evaluation. RTOR at 39. In this context, GovCIO submitted two references (the PMCSM and EMMS contracts) concerning its own performance, rather than references supporting performance by its team members. AR, Tab 14, GovCIO Technical Proposal at 41-48. Moreover, the experience cited by the agency was addressed in a different part of the awardee’s technical proposal (pages 11 and 18), and not reflected in the two examples submitted for the capability and experience element (pages 41-48). See AR, Tab 40, TEP Consensus Evaluation at 13 (*citing* pages 41-48 of the awardee’s proposal). On this record, we conclude that this aspect of the strength assigned to GovCIO’s proposal was unreasonable. We therefore sustain the protest on this basis.

Evaluation of GDIT’s Proposal

GDIT argues that the VA unreasonably evaluated its proposal under the technical evaluation factor by discounting or failing to recognize strengths, and by assigning three weaknesses under the technical approach element of the technical factor. Comments & Supp. Protest at 22-28. As addressed below, we find that none of these arguments provide a basis to sustain the protest.

Evaluation of Strengths

GDIT argues that the VA's assignment of strengths to its proposal was unreasonable. In each instance, the protester does not contend that the agency should have assigned strengths based on aspects of its proposal that were not recognized as providing benefits. Rather, the protester argues that the agency should have considered two strengths to be significant strengths, and that the agency improperly combined multiple positive aspects of its proposal into a single strength.

First, the protester argues that the agency should have designated the following finding regarding its key personnel a significant strength under the staffing approach element, rather than a strength:

Key personnel education and experience far exceed the minimum requirements listed in the PWS. Having the key personnel described and proficient in their tasks reduces risks associated with standing up services under this new TO and increases the Government's confidence in the offeror's ability to deliver the required services.

AR, Tab 40, TEP Consensus Evaluation at 5.

GDIT contends that this aspect of its proposal should have been assigned a significant strength, rather than a strength, because it corresponded to the definition of a significant strength in the agency's evaluation guide for this procurement, which defined these terms as follows:

5.1 Strength: Slightly exceeds standards/expectations in a way that will be advantageous and increase the likelihood of successful performance.

5.2 Significant Strength: Significantly exceeds standards/expectations in a way that will be advantageous and greatly increases the likelihood of successful performance.

AR, Tab 27, Evaluation Guide at 8.

Agencies must evaluate proposals based on the solicitation's stated evaluation factors and in a manner consistent with procurement laws and regulations. See *DynCorp Int'l LLC, supra*. In contrast, our Office does not review as part of its bid protest function allegations that an agency's evaluation did not comply with internal agency evaluation guidance or policies that are not contained in the terms of the solicitation or mandatory procurement regulations. See *Trailboss Enters., Inc., B-415970, et al., May 7, 2018, 2018 CPD ¶ 171 at 5*. Here, the definitions for strengths and weaknesses and the adjectival ratings to be assigned to proposals under the evaluation factors were not disclosed in the RTOR. We therefore find that the protester's argument that the agency

was required to follow the definitions of strengths and significant strengths in the internal evaluation guide is not a valid basis of protest.⁸ See *id.*; 4 C.F.R. § 21.5(f).

GDIT also contends that a strength assigned to its proposal under the capabilities and experience element improperly combined separate positive findings, and that the agency should have assigned two strengths--one significant strength and one strength. Comments & Supp. Protest at 22-23. The agency assigned the following strength to GDIT's proposal:

Offeror explained how they are currently successfully performing all requirements in this [task order (TO)] under the RMC-ESS and FCS Contracts. The offeror proposed to utilize customized software and established infrastructure with their Source Material Tracking Service software and scanning solution. This successful history of performance increases the Government's confidence that the Offeror will be able to successfully stand-up services necessary to perform the requirements in this TO.

AR, Tab 40, TEP Consensus Evaluation at 6-7.

The protester argues that the agency should have assigned a significant strength for GDIT's experience performing all requirements in the task order and an additional, independent strength for its proposed approach to utilize customized software and established infrastructure, which GDIT contends is a distinct proposal attribute. Comments & Supp. Protest at 23. As with the strength discussed above, the agency found that these aspects of the protester's proposal "increased," but did not "greatly increase" the likelihood of successful performance, and therefore did not merit a significant strength. The protester also does not establish that the solicitation prohibited the agency from combining separate or distinct elements into a single strength. We find

⁸ In any event, we find no basis to conclude that the evaluation was unreasonable. GDIT's argument focuses on the agency's finding that its proposed key personnel "far exceed the minimum requirements," Comments & Supp. Protests at 22, but does not address why this aspect of its proposal provides a benefit that "[s]ignificantly exceeds standards/ expectations in a way that will be advantageous and greatly increases the likelihood of successful performance," AR, Tab 27, Evaluation Guide at 8. The protester argues, in essence, that because the agency found that the protester's key personnel "far exceed the minimum requirements," the agency was obligated to also find that this benefit "greatly increases," rather than merely "increases" the likelihood of successful performance, thereby meriting a significant strength. We find no basis to conclude that the agency's assigned strength reflected a finding that the education and experience of the protester's personnel provided a benefit that "greatly increased" the likelihood of successful performance. To the extent the protester argues that the agency should have found the qualifications of its key personnel merited a significant strength, the protester's disagreement with the agency's judgement does not provide a basis to sustain the protest. See *Imagine One Tech. & Mgmt., Ltd., supra*.

that the protester's disagreement with the agency's judgement does not provide a basis to sustain the protest. See *Imagine One Tech. & Mgmt., Ltd., supra*.

Evaluation of Weaknesses

GDIT challenges the assignment of 3 weaknesses to its proposal under the technical approach element of the technical factor. We find that none of these arguments has merit and address a representative example.

As a preliminary matter, GDIT argues that each of the three weaknesses were improperly assigned because the agency's evaluation of its technical proposal considered information from "pricing and technical assumptions" set forth in the protester's price proposal. Comments & Supp. Protest at 23-24. The protester argues that the agency's evaluation guide for this procurement prohibited the technical evaluators from considering an offeror's price proposal because the guide specified that "[p]rice evaluations will be accomplished independently from non-Price evaluations." *Id.* (quoting AR, Tab 27, Evaluation Guide at 1).

As discussed above, a challenge to an agency's alleged failure to comply with internal agency evaluation guidance or policies that are not contained in the terms of the solicitation or mandatory procurement regulations is not a valid basis of protest. See *Trailboss Enters., Inc., supra*. Here, the solicitation did not state that the agency would exclude consideration of price from the evaluation of technical proposals.⁹

Turning to the assigned weaknesses, GDIT argues that the agency unreasonably assigned its proposal a weakness related to an assumption in its price proposal regarding compliance with National Archives and Records Administration (NARA) regulations in connection with extraction of OMPFs. PWS optional task 5.14, OMPF extraction, requires the contractor to perform the following: "Inventorying, packing, shipping, and tracking of those OMPFs to a Contractor-provided NARA compliant temporary storage and/or processing facility(ies) if deemed necessary by the Contractor." PWS at 39.

Section 4.2 of the PWS states that within 60 days, the contractor must establish processes that address NARA regulations as follows:

Within 60 calendar days of TO award, the Contractor shall have ready processing, conversion, storage space and security processes consistent with applicable VA security regulations . . . and the NARA storage requirements of 36 CFR, Part 1234, Subpart B, with no exceptions made for the waivers discussed within 36 CFR, Part 1234, Subpart B. While

⁹ In any event, the section of the evaluation guide cited by the protester does not expressly state that the agency was prohibited from considering "pricing and technical" assumptions in the evaluation of a technical proposal. See AR, Tab 27, Evaluation Guide at 1.

NARA certification is not required, the Contractor shall maintain compliance with the referenced NARA requirements. The Contractor shall provide a completed Facility Standards for Records Storage Facilities Inspection Checklist (Appendix B of 36 CFR, Part 1234, Subpart B), and documentation of a certified fire-safety detection and suppression system for each facility wherein source materials are received, stored, or otherwise handled as part of the end-to-end conversion process.

Id. at 13.

GDIT's pricing and technical assumptions stated the following with regard to optional PWS task 5.14: "Because records will be held temporarily, [document control sheet-record management number (DCS-RMN)] processing and imaging facilities are not required to meet 36 CFR Subpart 1234 facility standards or to be approved by NARA in accordance with NARA guidance." AR, Tab 25, Price Proposal at 30.

The agency assigned the protester's proposal a weakness because the stated assumption that the facility where DCS-RMN and imaging services would be performed would not need to comply with NARA facility requirements was inconsistent with the PWS and NARA regulations:

[The assumption] is in direct contradiction to the requirements of the PWS under 4.2, 5.14, and the Offeror's own [proposal] Figure 1-10. This assumption reduces the Government's confidence that the Offeror understands the requirements, and that their pricing will have to be altered when they will be required to secure NARA compliant temporary storage, processing, and imaging facilities.

AR, Tab 41, ADD at 4.

GDIT argues that the weakness was unreasonable because the NARA regulations do not apply to the PWS activities discussed in its assumption. Comments & Supp. Protest at 26. As discussed above, the PWS states that if a contractor elects to conduct "[i]nventorying, packing, shipping, and tracking" of OMPFs at a contractor-provided facility, the facility must be a "NARA compliant temporary storage and/or processing facility." PWS at 39. The PWS also states that "[t]he Contractor shall provide a completed Facility Standards for Records Storage Facilities Inspection Checklist (Appendix B of 36 CFR, Part 1234, Subpart B) . . . for each facility wherein source materials are received, stored, or otherwise handled as part of the end-to-end conversion process." PWS at 13.

The protester contends, however, that the NARA regulations at 36 C.F.R. part 1234 do not apply because they pertain only to a "private sector commercial facility that offers records storage, retrieval, and disposition services." Comments & Supp. Protest at 26-27 (*citing* definitions at 36 C.F.R. § 1220.18). The protester explains that the DCS-RMN and imaging process described in its pricing and technical assumption refers

to the assignment of document and records management numbers as part of the chain of custody process. *Id.* at 26-27. The protester contends the facilities where the DCS-RMN process takes place do not need to be compliant with the NARA regulations because the documents are “held in these locations temporarily while the required document control sheets are applied before the files move along to other facilities.” *Id.* at 27; Comments & Supp. Protest at 26-27.

In essence, the protester’s argument rests on the distinction between a facility that “holds” a record during the DCS-RMN process, and a facility that “stores” a record. Relevant to the protester’s arguments, the term “held” is not found in the NARA regulations at issue here. The protester does not cite any authority for distinguishing the terms “held” and “stored” in a manner that would render unreasonable the agency’s interpretation that the NARA regulations apply to facilities that hold or store source material, even on a temporary basis.

Additionally, the agency’s interpretation is consistent with the PWS, which as discussed above, interpreted the NARA regulations as applying to “each facility wherein source materials are received, stored, or otherwise handled as part of the end-to-end conversion process.” PWS at 13. On this record, we conclude that the agency’s assignment of a weakness based on the protester’s pricing and technical assumption was reasonable, and therefore find no basis to sustain the protest.

Documentation of the Consensus Evaluation

GDIT argues that the VA’s evaluation of proposals was unreasonable because the consensus evaluation prepared by the TEP did not document why it assigned strengths or weaknesses that were not initially assigned by the individual evaluators. Comments & Supp. Protest at 28-30. We find no merit to this argument.

The record provided by the VA consists of evaluations of each offeror’s proposal that were prepared by the three members of the TEP, and the consensus report prepared by the TEP. GDIT notes that certain strengths assigned to GovCIO’s proposal and weaknesses assigned to GDIT’s proposal were not identified in the evaluation sheets prepared by the TEP members, and instead were first identified in the TEP consensus report. The protester contends that the record does not support the assignment of these strengths and weaknesses for two reasons: (1) the evaluation guide for this procurement required all evaluation findings to originate with an individual evaluator, and (2) this TEP consensus did not explain why the panel assigned strengths and weaknesses that the individual evaluators did not previously identify.

First, we note that the solicitation specifically stated that adjectival ratings for each evaluation factor would be assigned through a consensus, and that adjectival ratings would not be assigned by individual evaluators:

The Government will rate a Contractor’s Technical response at the factor level *by team consensus*, using an adjectival rating that most accurately

defines the Contractor's technical merit considering all elements identified in this section. . . . *A rating will not be given at the element level or by an individual rater.*

RTOR at 43 (emphasis added).

The protester acknowledges this solicitation provision, but nonetheless contends that it "does not take away from the fact that the strengths and weaknesses assigned by each individual evaluator were to be the basis for the strengths and weaknesses assigned in the final TET summation." Supp. Comments at 29. In support of this argument, the protester cites the evaluation guide, which stated that "[e]ach evaluator shall review, evaluate, and document significant strengths, strengths, significant weaknesses, weaknesses, and deficiencies of each element for each compliant Technical quote received." AR, Tab 27, Evaluation Guide at 2-3. The protester thus contends that while adjectival ratings were required to be assigned via consensus, all strengths and weaknesses upon which a consensus rating was made had to originate with an individual evaluator.

As discussed above, an argument that an agency failed to follow internal agency evaluation guidance or policies that are not contained in the terms of the solicitation or mandatory procurement regulations does not set forth a valid basis of protest. See 4 C.F.R. § 21.5(f); *Trailboss Enters., Inc., supra*. For this reason, we find no support for the protester's contention that the TEP was prohibited from basing its consensus adjectival ratings on strengths and weaknesses that were not first identified in individual evaluator rating sheets.¹⁰

Next, the protester argues that the fact that the strengths and weaknesses appeared for the first time in the TEP consensus report reflects a disagreement between the TEP and its constituent members that calls into question the reasonableness of the consensus evaluation. Comments & Supp. Protest at 28-29. The protester, in essence, contends that the absence of the challenged strengths and weaknesses in the individual TEP member evaluations implies that the evaluators initially concluded that these findings were not warranted, and that the TEP consensus report reflects disagreement with those initial judgments.

We do not think that the record supports the protester's inference that the individual evaluators disagreed with the TEP consensus. Rather, the record simply shows that the TEP consensus report contains strengths not identified by the individual TEP member evaluations. As our Office has explained, it is not unusual for individual evaluator ratings to differ from one another, or to differ from the consensus rating eventually assigned; indeed, a consensus evaluation may reasonably be determined after discussions among the evaluators. *Unitec Distribution Sys., B-419874*,

¹⁰ In any event, we note that the evaluation guide does not, as the protester contends, expressly prohibit the TEP from identifying or relying on evaluations that did not originate with an individual evaluator. See AR, Tab 27, Evaluation Guide at 2-3.

B-419874.2, Aug. 20, 2021, 2021 CPD ¶ 307 at 4. The overriding concern for our review is not whether an agency's final evaluation conclusions are consistent with earlier evaluation conclusions, but rather whether they are reasonable and consistent with the stated evaluation criteria, and reasonably reflect the relative merits of the submissions. *Level 3 Commc'ns LLC*, B-412854 *et al.*, June 21, 2016, 2016 CPD ¶ 171 at 10 n.14. On this record, we do not conclude that the absence of the strengths and weaknesses from the individual TEP member evaluations reflects any disagreement with the TEP's consensus judgment that shows that the consensus evaluation was unreasonable. We therefore find no basis to sustain the protest.

Award Decision

GDIT argues that the award decision was unreasonable because it relied on what the protester contends were flawed evaluations of the offerors' proposals under the non-price factors. Comments & Supp. protest at 31-36. We agree.

Generally, in a negotiated procurement--including task order competitions under IDIQ contracts--an agency may properly select a lower-rated, lower-priced proposal where it reasonably concludes that the price premium involved in selecting a higher-rated proposal is not justified in light of the acceptable level of technical competence available at a lower price. *OGSystems, LLC*, B-417026.5, B-417026.6, July 16, 2019, 2019 CPD ¶ 273 at 12; *NOVA Corp.*, B-408046, B-408046.2, June 4, 2013, 2013 CPD ¶ 127 at 5-6. While an agency has broad discretion in making such a tradeoff, an award decision in favor of a lower-rated, lower-priced proposal must acknowledge and document any significant advantages of the higher-priced, higher-rated proposal, and explain why they are not worth the price premium. *Id.*

The award decision adopted all of the strengths and weaknesses assigned to the offerors' proposals by the TEP, as well as the adjectival ratings based on those findings. AR, Tab 41, ADD at 2-5. The award decision acknowledged that under the technical evaluation factor, GDIT's proposal had a higher adjectival rating of good as compared to the satisfactory rating assigned to GovCIO's proposal. *Id.* at 7. Despite the evaluated advantage for the protester's proposal, the SSA found that "there are no significant advantages or disadvantages between the offers to justify the payment of the price difference associated with GDIT's offer, given the level of technical competence available at GCIO's lower price." *Id.* The SSA concluded that "it is not in the best interest of the Government to award to a contractor with a higher-rated, higher-priced (by \$158M) offer," and that "[t]he degree of confidence that the VA has in regard to GCIO successfully achieving the requirements in the PWS if the technical approach proposed is followed is sufficient, and not worth any tradeoffs." *Id.*

As discussed above, we conclude that the VA's evaluation of GovCIO's proposal was unreasonable with regard to the past performance factor and the capability and experience element of the technical factor. With regard to the past performance factor, the assignment of a neutral past performance rating to GovCIO's proposal would have required the agency to assess whether the protester's higher-rated proposal for this

factor provided any benefits as compared to the awardee's lower-priced proposal. Additionally, a finding that the awardee's proposal did not provide the required "2 or more examples of projects of similar size, scope, and complexity," could result in a lower or even unacceptable technical factor rating for the awardee's proposal. See RTOR at 39. Such findings would also require the agency to assess whether the protester's proposal provided any benefits as compared to the awardee's lower-priced proposal. On this record, we therefore find that the agency's award decision was unreasonable, and that the protester was prejudiced by this error. See *AT&T Gov't Solutions, Inc.*, B-413012, B-413012.2, July 28, 2016, 2016 CPD ¶ 237 at 28 (protest sustained where unreasonable evaluation of proposals rendered the award decision unreasonable).

CONCLUSION AND RECOMMENDATION

We conclude that the VA's evaluation of GovCIO's proposal was unreasonable with regard to the past performance and technical factors. We also conclude that the agency's award decision was unreasonable because it relied on the flawed evaluation of GovCIO's proposal under the past performance and technical factors. We further find that GDIT was prejudiced by these errors because the protester's proposal was more highly rated than the GovCIO's proposal under the more heavily-weighted non-price factors, and because the flawed evaluation supported the agency's decision to award the task order to GovCIO based on its lower-priced, lower technically rated proposal.

We recommend that the agency reevaluate GovCIO's proposal consistent with the discussion above. We also recommend that the agency make a new award decision that ensures that the comparison of the offerors' proposals is consistent with the solicitation's award criteria, adequately supported, and adequately documented.

We also recommend that the agency reimburse the protester's reasonable costs associated with filing and pursuing the protest including attorneys' fees. 4 C.F.R. § 21.8(d). The protester's certified claims for costs, detailing the time expended and costs incurred, must be submitted to the agency within 60 days after the receipt of this decision. *Id.* § 21.8(f).

The protest is sustained.

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